

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

Special Meeting

April 12, 2001

A special meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held Thursday, April 12, 2001 at 11:00 a.m. in the Planning Department Conference Room, 10th Floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Jerry Michaelis, Chair; James Barfield; Frank Garofalo; Bud Hentzen; Bill Johnson; John W. McKay, Jr; Ron Marnell; George Platt; Harold Warner, Jr; Ray Warren; and Kerry Coulter; (late arrival); Susan Osborne-Howes. Dorman Blake and; Richard Lopez were not present. Staff members present were Marvin Krout, Secretary; Dale Miller, Assistant Secretary; Donna Goltry, Principal Planner; Scott Knebel, Senior Planner; and Valerie Robinson, Recording Secretary.

Jerry Michaelis chaired the meeting.

1. Discussion with KDOT staff on State Transportation Plan

JAMSHEED MEHTA: MAPD Transportation staff. We have two topics on this morning Agenda. The first hour or so, we will discuss the State Wide Long Range Transportation Plan. Seeing the crowd here, I suspect that some are here for the second topic at a later time, but not necessarily on transportation or I might be wrong and I am quite impressed in that case. On the first subject, it has to do with the Kansas State Wide Long Range Transportation Plan, a document that was prepared by the State and completed in 1995. In fact kicking off right now, being their second official day on this subject is to get input from various entities throughout the State. This is not necessarily the formal public meeting where the State receives the input, but back about a month ago, when we as staff visited Topeka and discussed this with the State Transportation officials, we thought it was a good idea to bring it before the official MPO body, as well and get you involved. Giving you a change to ask questions, give responses and maybe suggest what direction, the State needs to look at. They are all ears at this stage, there is not necessarily a solution to be identified at this point, but this is there input mechanism. Just to give you a quick overview of the relation of this plan to what some of the responsibility you as the MPO body have. Each year you have a unified work program, which identifies all the programs and all the projects that staff will be involved with and will be presenting to you in that given year. In fact in this year for the first time we have an eighteen-month work schedule cut out because we wanted to come into sink with the fiscal cycle to begin in January. You have another document called the TIP where you had some very sufficient involvement, more recently the one you approved last year. The TIP is the Transportation Improvement Program, which identifies all projects in the Metro-Area. That is all of Sedgwick County, regardless of what jurisdiction. You had some controversial issues and you took some tough positions on those, just to recall what we went through last year. That was a significant document. Then finally you have the larger document called the Transportation Plan. We don't do that annually in that since, we may update those at any time but the most significant thing you have done; last year in March as an MPO you approved the Comprehensive Transportation Plan as an MPO separate from what the governing body eventually did, which was accept that into their city and county wide Comprehensive Plans. The relationship of this Transportation Plan that you approved last year in March, compared to the States Long Range Transportation Plan is that your MPO Plan is a project specific document. It has policy, it has goals, it has strategies to implement those goals, but ultimately without identifying which street from where to where, how many dollars is a fiscally constraint document, no pie in the sky type of project involved in that. That is so, not by your choice but that is the way federal regulations require it to be, a fiscally constraint document. The Transportation Plan from the States perspective is a policy document. It is not project specific. They may be mention of certain projects, but it is not necessarily guiding as to where those projects, the actual construction of any project is going to be. It is about how monies are received, how monies are distributed, what are the fair and equitable ways of distribution of those kinds of project monies. What the future implications in terms of trends and demographics in the State and what from a transportation perspective is expected to be done to deal with those growth trends of the future. There are many hard issues that we have at least enlightened you a little bit about and I'm hoping the officials from the State will mention some of those as being equally important to them in their long-range plan as they are and have been in our MPO planning process. I am going to leave that for some of them to make mention of that and if you like we can bounce to your conversation at a later time. We have about an hour or so for this discussion. I would like to make some brief introductions here of whose, who from the State: Mr. (Jim) James Tobaben, Bureau Chief of Transportation Planning from KDOT; Mr. Thomas Dow, Regional/Urban Planning Manager, also KDOT; Mr. David Schwartz, Long Range Planning Engineer, also KDOT; and Rene Hart, MPO Administrator Planner, Wichita Section. We have Mr. Martin Miller, from District 5, which is the Hutchinson office of KDOT, who is the Public Participation Liaison Officer. From the Wichita office, we have Benny Traverdi, Metro Engineer, KDOT; and Kathy Wickam, Field Engineering Administrator. With that, David Schwartz will enlighten you on the process.

DAVID SCHWARTZ: I appreciate the time and a chance to explain our effort here in front of you today. Jamsheed did an excellent job of introducing me. I will reiterate some of the things he mentioned. I don't know if your

packets the Executive Summary from the Existing Long Range Plan and that gives you an idea of the issues and the flavor of the previous document. We are not going to go through any radical change in format or features with this update. We feel that the last plan was fairly successful, as Jamsheed mentioned it is a policy document. We want to explore the issues in transportation over the planning horizons which for this document is going to be 2025 and examine trends things like that and make sure that the way KDOT goes about its business in all these different areas of transportation is the best way that we can do that and make sure that our cooperation with all of our partners, that we are planning toward similar goals. Again as far as the future projects over the next 25 years as you know the legislature makes or determines how much money we can spend on construction. The Comprehensive Transportation Program that was passed by the legislature in 1999 basically committed us to certain lists of projects throughout the State for that time period. As you know last year, we selected the System Enhancement portion of those projects. That is our project specific long-range plan; at least over the next 10 years most of the funds for constructions of highway projects are committed. That is why again we are going to stay with the policy-based plan. Some of the success is out of the 95, plan that I would like to bring out, first of all public involvement. I think KDOT has heard from all the different avenues of public involvement for the last plan. For the project specific, the public involvement is that KDOT needs to do a better job of keeping the public informed and achieving consent on different projects. To that end the last long range plan recommended a public involvement, a designated resource within KDOT and so now; we have the public involvement unit. We have liaisons in each district. Again, Mr. Miller serves the District 5, for Wichita area. Be sure if you have any concerns or anything with transportation or KDOT within the area that you can go to him and he can find the answer or the person that you need within KDOT. Again there is also folks in headquarters and there area liaisons that are specifically working with our Bureau of Design, they work on specific projects to make sure that the public's interests and concerns are heard on every project. Another important thing that came out of the 95, plan was the Access Management or the Corridor Management efforts. Now we have Chris Huffman in headquarters, he is our Corridor Management Officer and he makes sure that access is protected so that we can ensure the integrity of our facilities that if everybody was able to get a driveway where they wanted then obviously we could clog up the facility faster than it should. So, that is another offspring of that last plan that we are especially proud of. Intelligent Transportation Systems here in Wichita you now have the early deployment plan in place for Intelligent Transportation Systems and we are working together to get those systems in place right now. That effort was an offspring of the last 95 plan also. It is those types of policy issues that we are kind of looking to identify. We will be working with the Metro Areas. We are working with local governments and with advocacy groups for transit and environmental groups and freight, we will be consulting them to determine the issues that need to cover in this new document. Some of the things that have come up already that we feel need to be addressed, environmental justice, and Jamsheed has told me that you have received a little bit of education along the environmental justice lines. For the plan we would at least like to come up with some kind of cursory look throughout the State to identify concentrations of low income and minority groups to make sure that; (A) Their voices will be heard in the planning process. (B) That when we plan projects that we are not unfairly treating those groups in accordance with Environmental Justice Regulations from the Federal Government. Speaking of Federal Government that is another group I left out, the FHWA, the Federal Highway and the Federal Transit Administrations will be working with them on this document as well to ensure that our policies are in line with federal insinuation. They have spelled out a list of seven requirements that our long range planning process must cover. I don't have those before me, but you can be assured that Bill Klassen from Federal Highway, he was not introduced, but he will be working with us every step of the way. Another issue that we plan to cover a little more in depth this time is Air Quality conformity issues and concerns. Not only the Kansas City Metropolitan Area are facing new Air Quality Standards being put out by EPA they will be facing a non-conformity, rather non-attainment situation. That will place restrictions on their transportation planning process. Wichita it is unclear as to the extent of air quality implications there will be, if air quality continues to degrade, and I shouldn't say continue to degrade, Jamsheed just told us that in fact the last years air quality results, the monitoring results were actually improved. However, if the air quality should degrade in Wichita then the transportation plan must be subject to conformity analysis. In other words if the projects in Wichita long range plan show an increase in air quality, or increase in emissions over the conformity limit then significant restrictions on capacity projects and further analysis will be necessary in order to implement those capacity projects. We are not obviously going to go into that in major detail but we do think it is a major enough issue for a good enough portion of the Kansas citizens that we are going to cover it in the long-range plan. Another issue that we plan to address is the Corridors within the State of Kansas. While we said we would not spell out specific projects, highway projects, we would like to identify key Corridors that may have, based on future travel trends, truck volumes or things like that or safety concerns are candidates for higher facilities such as four lane facilities. For those Corridors we will have an ultimate goal in mind, rather we achieve that goal in the planning horizons in twenty-five years is probably doubtful but at least, rather than piece by piece planning process we can have this broader concept for a Corridor. Just as an example, I am not guaranteeing anything, but just as an example, the U.S. 400 Corridor which serves southern Kansas from East to West, if we look at it and determine that the traffic is going to continue to grow and the trucks are going to become such a high volume that it makes travel on a two-lane facility difficult, then it obviously makes it a good candidate for a four-lane facility. Again, that is just an example. We will be looking at a map that might show those ultimate concepts for those Corridors. Another issue, I'm not sure the detail will cover it in the plan but the changing MPO boundaries. It has been brought up that part of Butler County may become part of this MPO. Again in the long range plan we will want to reflect that and work very closely with the staff and the Planning Commission on any sort of reorganization or simulation type efforts that will be undergone with the MPO boundary. We have some other areas in the State that

for example the Manhattan area maybe come or reach that 50,000,000 population threshold set to become an MPO themselves. We will be monitoring those different issues in the long-range plan. That covers most of the issues that I wanted to highlight. After reading the documents if you have specific issues in mind, I'm sorry I left off our involvement efforts for this long-range plan; we have taken the input from the transportation 2000 meetings, if you recall. In 1998 the governors task force went around the State asking for input. At the time, we were trying to stir up interests for a comprehensive transportation program, but also we got some really good input on lots of issues. We heard that there is a strong need for transit improvement in both service time and new Corridors and things like that. It increases funding; funding was included in the last comprehensive program. We heard that airports are in dire need for funds to help rehabilitate their facilities. That was included in a section of the State funding; a comprehensive program was included for airports. Railroads and short-lines, it is beneficial to State to help short-line railroads out, not only to help our agriculture economy but also to help relieve the stresses on our Kansas highways from transporting grain. A loan program was initiated for the short-lines. Some of those things we took out of Transportation 2000, we have also undertaken an external survey I believe you have the results for that in your handout. What that was in 1997 KDOT initiated its first external survey and that was to engage the publics perception of how KDOT is carrying out its duties and what priorities the public has for KDOT. Are there certain things that we need to be concentrate on more, you will see that this latest round in 2000 we were very pleased that the high approval ratings that we received in 1997 continued in this last 2000 survey. A little history on the survey, it was conducted by ETC Institute. They did a random phone survey and they tried to get a sample of all six Districts as well as from each KDOT maintenance area. Eventually the results will be available by District and we hope to provide the District 5 results to the MAPD. In addition, we asked each phone correspondents the question, "how would they spend \$100.00 of the KDOT budget" and in line with our priorities, the number one concern was to maintain the current facility that we have. The number 2 priority was safety. We were pretty happy that those fell along or fell in line with KDOT's priorities. As far as other public involvement efforts that we are currently undertaking, we are developing a web site, which is accessible through KDOT's main web site. If you are interested, the web address is www.KSDOT.org and we will have a link to the Long Rang Transportation Plan Update from that site. People will be able to view the entire 1995 Long Range Plan as well as the current efforts that we are undergoing and the results that we have heard from all these different meetings, such as this one. We will have a running progress report on there. Eventually people will be able to review the draft when that is available and make comments there. They can also fill out a survey similar, although much shorter in content to the external survey, but some of the same type questions. That is a new avenue of outreach that we didn't have obviously six years ago, since the internet was still fairly young and access to it was much more limited. We hope that will be a successful outreach. Later on after we develop a draft, we will disseminate that and let people look it over. We plan to return to Wichita for comments on that draft and we will incorporate those before the final addition. The whole time line we would like to be finished by the end of this year so we have our work cut out for us. We can now open it up for informal discussion as far as issues that you'd like to see covered in our State Long-Range Plan.

GAROFALO: You touched on priorities, mentioning, maintaining what we have now and the safety, could you touch on some of the other priorities that the KDOT has arrived at, also where Wichita-Sedgwick County Metro fits in?

DAVID SCHWARTZ: We have our strategic management plan and it sets forth the goals and the priorities of the agency if I'm reading your question correctly. It should be obvious that KDOT's number one priority is safety and making sure the transportation system is a safe one. As far as other priorities go and I think that economic development is a priority, but without having our strategic management plan in front of me this is a challenging question, as far as how the region fits into KDOT priorities, it is more of a project specific question that you are asking. The projects that KDOT selects come from a priority formula that is objective, data driven, engineering formula where all of the needs of each section of State highway in Kansas are in a database. Different facades such as traffic volume, truck volume, the geometric is the characteristic of the roadway and the bridge ratings and things, roadway and bridge area rated separately, but anyway the priority formula selects projects if that is where your question was leading on that. Wichita and Sedgwick County region is treated just like the whole rest of the State as far as if the needs are there the projects come up. I might defer to Jim on that question also.

(JIM) JAMES TOBABEN: Addressing your question, I'm not sure quite sure where you are headed either?

GAROFALO: I noticed here in the survey there were some responses to different specific things, not projects but areas. I was wondering where is some of that. If the survey is taken seriously, where do some of these things fit into KDOT priorities, and where they area at? For example, the three lowest rated features were a number of paved shoulders, the frequency of roadside rest areas, and the width of shoulders, all that sort of stuff.

SCHWARTZ: I was going to say, we are still in the process of meeting with the different Bureaus, then KDOT and the Bureau of Design will be one of those. We will bring that point up and perhaps they may shift the priorities as far as studies and actual consideration given on individual projects to some of those different facilities or aspects that were related lower or higher.

TOBABEN: Sometimes when you are doing a good job of providing a descent shoulder or something like that, in the publics way of looking at things maybe that is not a critical to them. You already have that out there. They are

looking for things that maybe we don't have or things they would like to see us put a higher priority on. I'm not sure that the survey necessarily mean those things are not important to the public it is just they are placing and seeing their priorities in different areas.

GAROFALO: I would just mention one thing that I think is important. The State is trying to emphasize tourism and we are maybe going to spend more money in that area, apparently Wichita is or Wichita-Sedgwick. They talk about roadside rest areas, Kansas is really lacking in roadside rest areas. I guarantee you that. I have experience at racing into a restaurant or stopping along side the road. I think that is really important to tourism.

TOBABEN: It certainly is, you also have a number of businesses that would as soon not see rest areas so that people will come into their establishments.

GAROFALO: I understand that, because when we went to that restaurant we stayed and ate dinner. The tourist friendly thing to do is have more roadside rest areas for example.

TOBABEN: I think we have most of our rest areas on I-70 is where you go great distances between towns and you don't have the opportunity to have those facilities very often.

GAROFALO: Highway 54 is another one.

TOBABEN: Yes highway 54 is another one that carries a lot of traffic.

SCHWARTZ: The previous plan recommended an actual strategy. I don't think KDOT actually had a strategy for managing rest areas. The 95 plan recommended a rest area management plan in which some of the lesser used areas where we may have been fighting a losing battle as far as the older facilities and things like that, recommended closing some of those in order to divert the funds to the more used facilities. We would like to think we are doing a better job of managing and things like that.

(Tape 450)

MILLER: As a representative of District 5 we cover the eighteen Counties of South Central Kansas. We do have a new rest stop near St. Johns on Highway 50. We are building a new one on K-96 and it is on the far western edge of our district, I'm sorry I can't remember the town right off the top of my head. We look at highway 54, but we currently have a large study under highway 54 and this would be west of Wichita and we have deferred that until the study is complete and we know if highway 54 is going to be realigned or if future improvements are taking place along those areas. It is important to KDOT and we are improving our rest areas. As it was mentioned, we have closed a lot of these old one that in essence were out houses. We are building ones that are more modern; it is a program that KDOT is undertaking. We are improving in that area we hope.

HENTZEN: I'm not sure who can answer this, but in your Executive Summary in the second paragraph you refer to a 20-year program, we have been talking here for the last year but we have been talking about a 30 year program. Now are we 10 years ahead of KDOT or should we be dealing in 20 year?

TOBABEN: I'm not so sure that the 2025 or 30 years is as important as that we are trying to look to the future. We are trying to look at directions that KDOT should be headed, what issues are important to the MPO to the people of Kansas. We are looking for areas that we should be doing a better job in Dave talked about a few of those that came out in the last plan and ITS was kind of new on the scene at that point and time. We knew we needed to look into that area and see how that could help our transportation system. We knew we needed to look more at Corridor Management because that helps us protect our investments. Public involvement was also gaining momentum and we knew we needed to do a better job there. Those issues were being brought to us at the time we were developing that 1995 plan. That plan also looked at all modes of transportation, maintenance of our system, covers a wide variety of topics. It came up with 40 different recommendations and really; KDOT has done a very good job at addressing almost everyone of those recommendations that came out of the plan. What we are doing now is still look out 20, to 25 years, kind of. To see what are the topics that you feel we need to take a good look at what are the new things that are coming on the scene that we are addressing.

GAROFALO: Let me follow up with a question about funding. You remember we had that infrastructure program I think when Governor Hayden was there, that big highway program and it was completed. Now the legislature adopted another significant program. Did any of them talk you into forking over some of that money during this last session, because they were fined on their education money? What I'm saying is the money still committed to the highway program that was approved.

TOBABEN: Well as of today, I think we are still in pretty good shape. Now what happens when the legislature comes to town on the 25th; the budget is a big issue for them this go around. So far, we may have lost a small amount of money, but nothing that we think that is going to over impact the overall program from this point. From this point on if they really try to raid the transportation program, then no there is no possible way to do all the

projects if we don't have the funds to do them. But looking at the CHP the last program we had, the legislature was pretty good with staying with their commitment to transportation. We are hoping they will show that same commitment this time.

MICHAELIS: Any further questions? Mr. Krout you have a question.

KROUT: You mentioned rail, we are pretty familiar with freight rail issues here in town, overpasses, and relocations, abandonment's and all that but recently passenger rails has been of interest. Can you tell us if passenger rail dealt with in the 95 plans and do; you expect it to be in the new planning?

TOBABEN: I think the new plan we may address passenger rail. I'm trying to recall if we made mention.

MEHTA: The existing Am-trek lines were in it and Southwest Chief, but this new initiative to connect to Oklahoma City's, is fairly new and therefore not addressed.

We will address the study and was done by CHAMPS and I can't remember who the Kansas sponsor was, there was a consultant that did a feasibility study and we plan to work very closely with our rail unit. Our neighbors at KDOT, they have a rail plan and we intent to incorporated their major findings into the long-range plan. Commuter rail and other passenger rail will definitely be covered and the possibilities will be covered in this plan.

MICHAELIS: Any further questions? Mr. Garofalo.

GARAFALO: Safety is a big issue, it is one that I could sneak in a couple of projects, could your review for us a little about safety and how it's determined for example at interchanges like Kellogg and Highway 54 and the project at 21 Street and I-135. Why one would be rated over the other or something if safety is an issue on both of them?

TOBABEN: Safety is a big priority with KDOT for all our projects; it is an integral part of all our designs work that we do. The design standards that we use, traffic safety or the accident history is one component of our priority formulas. Our priority formula like Dave said, it looks at the characteristic of a given roadway. It also looks at the traffic volumes that are on that roadway and how well the road is carrying that traffic; and is their need to add lanes and the third thing it looks at is the safety of that roadway. How well that roadway is performing. The way those sections of highway come to the top of the lists by taking a look at all those factors. Safety is a key part in that Priority Formula, in helping us choose projects. I guess the downside if there is one, we have more needs than we have funds to address, so you have to pick projects, you don't get to do, all the projects that you would like to do. The interchanges you mentioned here in town, KDOT agrees with you, we would like to see something there as well. It is just that we need to find the funds to do that. This transportation program, those funds are basically spoken for. If there were a third transportation program that would be where the funding would come from. In KDOT we spend a great deal of funds on substantial maintenance, maintaining the existing systems, than we have the projects at the priority formula chooses which is upgrading the system to current standards. We also have the system enhancement component. That is where the local area government gets a chance to say hey this is a high priority for us. That is one of the opportunities; we have picked those projects for this program. Hopefully we will get another program and we will have another chance to do that same type of thing and let you all point out the ones you think are real priorities.

MICHAELIS: Does anyone else have any questions that they would like to ask?

AUDIENCE: I have a question about 151st Street and K-96? Over the last seven years we have killed 5 people at that intersection, because when you created K-96 you moved the west bound lane towards that bridge when you come off 151st Street, is there not a way to put up a flashing red light their? The minute you come off that bridge the stop sign is there. The County Fire Station two miles south of that, they make an awful lot of accidents at that corner, because people come up to that and don't realize that the stop sign is there, see that yield sign over on the other side and pull out in front of that traffic. Is there anything you can do to correct that, like they did at Yoder road and 50 Highway.

TOBABEN: That is a possibility. Our Traffic-Engineering Department has taken a look at each of the intersections along K-96 and has made recommendations for what they feel is appropriate at each of those intersections. We have been tracking the accidents that have occurred along K-96. When the highway first opened, it didn't seem like we were having severe accidents, they seemed to be tapering off. The only thing I can tell you is I know each intersection has been looked at individually for their accidents and for what type of traffic control signing and whether there is a need for beacons.

MICHAELIS: Any further questions? Mr. Mehta, you have any closing statements?

MEHTA: Just a briefing to let you know where we are going from here, this afternoon we have a Technical Advisory Committee Meeting and a Coordinating Meeting on Transportation, a joint meeting information only, no action required, but we essentially go through the same process of talking about the long range plan. Their might

be some other issues from staff prospective we will be presenting at that point and time to them if there is any communication that we do expend to KDOT, we will run you a cope and let you know what those concerns are. Thank you.

KROUT: Now would be a good time to take a 5-minute break.

2. CONSIDERATION OF PROPOSED AMENDMENTS TO THE UNIFIED ZONING CODE.

Entrance after break, Donna Goltry discussing topic. (Krout, Robinson and Knebel) in after discussion has started. No recording of conversation. Robinson running copies per Knebel's request. Donna Goltry reviewed the summary of changes being proposed to the Unified Zoning Code, as outlined in the memo to MAPC dated February 22, 2001.

Following this review, she discussed several changes suggested since the February memo. These changes were contained in the memo dated April 5, 2001.

Parking/Storing Vehicles:

DONNA GOLTRY "There is a discrepancy between the requirements for off-site parking and for shared parking. Off-site parking is not allowed across a major arterial. While this restriction is not contained within the shared parking requirements, we should note that shared parking is also always off-site parking for the zoning use that has requested permission to share another zoning lot. So, by inference, shared parking across any street or alley is off-site parking. Therefore, it is already governed by the major arterial requirement. However, it is clearer to repeat the same language prohibiting shared parking lots from being located across a major arterial to the shared parking requirements.

Here is one additional conflict. For churches, schools and health-care related institutional uses, a lot that would otherwise be considered an off-site parking lot is considered to be on-site. This provision is not repeated in the shared parking requirements. However, we have talked about having parallel structure (between off-site and shared parking requirements). We should also add a provision similar or identical to item 'e' on page 11 (memo dated April 5, 2001) to the shared parking section so that it makes it clear that when a church has a parking lot across the street from an arterial, it is deemed to be on-site rather than off-site parking even if it is a shared parking lot.

Here would be an example of one shared parking lot I have been reviewing recently as part of landscape code review. At Immanuel Baptist Church, in the South Broadway area, they have off-site parking, which is across Topeka from their main sanctuary. They also have shared parking, which is across Broadway, and the shared parking is parking that they lease from the mortuary, Broadway Mortuary. I would say I see some heads shaking on this (not understanding the difference), so maybe we want to discuss this a little further. Basically what we are trying to do is make the rules for shared parking the same as for off-site parking."

Enforcement Procedures

"Also if you look under enforcement procedures, I have a typo, it says that staff recommends that 'Sec. VII-F.1 be amended as follows.' It should have read Sec. VIII-F.1.

I have had a request from Law that we further clarify that section by inserting a word. If you look under the fourth line under 'any person who is a tenant, occupant, or party to the any', after 'any' insert the word 'written agreement' to make it clear that it has to be a written agreement that we are dealing with before trying to make notification (of a violation to the party to the written agreement).

I also have found a typo to page 133 of the draft Unified Zoning Code (dated February 22, 2001). I will correct where the extra 's' is added.

I will pause at this point and ask for any questions."

MICHAELIS "Mr. Warren."

WARREN "Yes, on this shared parking I would hope that we didn't make that so rigid that there wasn't some form of appeal, some administrative adjustment."

GOLTRY "We are not making it rigid; we are making it more permissive."

WARREN "I'm thinking about across the street."

GOLTRY "Right, that is what I am saying."

WARREN "I'm thinking in terms for certain people. Banks for instances."

GOLTRY "In the CBD it would not be influencing it, because in the CBD they are not required to provide off site parking."

WARREN "In fact I will use one example that I would hope that in certain cases particularly where employees are allowed to park off site that that would count towards the overall parking."

KROUT "As long as it is not across a major street and as long as it not more than 50 % of the total parking."

WARREN "Well it may be across a major street."

KROUT "I think you have to be very careful when it is across from a major street."

WARREN "Even if it is employee parking where they are just going once a day and they are not going back and forth?"

KROUT "They don't have a lot of pedestrian signals and ways to get people across the major streets."

WARREN "All I know is that we get into these things and if we don't have the flexibility, somehow to make an administrative adjustment in the appeal processes you can sure hurt people pretty bad."

GOLTRY "To clarify perhaps, if you had an arterial street and you had a bank on one side and they attempted to purchase a property on the other side to use for parking, according to the Code today they would not be permitted to do that because it is across the major arterial. What we are saying--if they are just trying to get a lease agreement with the party that is involved, that is shared parking, it is also off-site parking. Really it is a 'Catch 22', it is already both a shared and off-site. As the Code currently reads, they should not be allowed to have shared parking across a major arterial either. This is more of a clean up issue."

KROUT "There is an appeal to the Board of Zoning Appeals in regards to this."

WARREN "This is something that they could do already."

MICHAELIS "Any further questions? Mr. Garofalo?"

GAROFALO "It is not on the shared parking, but one of my concerns has been; like in the LC we have vehicle sales, on permitting them to elevate vehicles and so forth. I was concerned; I think we need to put in a limit their (height). Like in LI."

MARNELL "LI is not permitted. We came to an agreement Frank that "LI" was not permitted."

GAROFALO "Yeah, but in GC."

MARNELL "We left it alone."

GAROFALO "Yes in "GC" they can do anything they want to."

MARNELL "All we are trying to do is get a height recommendation from both. But the consensus was we didn't want to do that. So we just said leave it alone, if you remember."

GOLTRY "Okay, I am looking at page 152 of the draft and on page 152, as Mr. McKay has pointed out (in previous discussions), a height limit is not included in the GC regulations. It is included in the LC I believe."

GAROFALO "In the "LC" what is it..."

MARNELL "I don't know what page it is on but I can give a generalities. We talked at length and the proposal was to do away with the raised platforms in all car lots. We felt as a committee we were taking away from what was already presently there. We said why not put a limitation and have it allowed in all parking on all car lots because some of it was on LC and part of it was on GC. We kind of mutual agreement all of us to leave it the way it is."

KROUT "It is page 143."

GOLTRY "Look at page 144. Actually in the draft I'm look at, I am showing that item 8 under LC as a Conditional Use says there shall be not use of elevated platforms for the display of vehicles. You are saying to do the same thing in GC?"

MARNELL "We just left it alone."

GOLTRY: "In GC I have nothing in it about it."

MARNELL "That is because you can already do it. What we are trying to do is get it uniform across the board and there was no giving either way, so we left it the way it was."

GOLTRY "So there will be no elevated platforms in LC and elevated platforms would be allowed in GC is the way it is stated."

GAROFALO "By-right?"

MARNELL "GC. And LC, no."

GAROFALO "The only thing I would say was that I think, I don't mine the elevated in the GC except I think you ought to have a limit. Because could they put it up a 100 feet, 75 feet, 50 feet."

GOLTRY "Page 152."

GAROFALO "We ought to be able to have some sort of limit."

MARNELL "I think we ought to allow it in all of them; in GC and LC."

MICHAELIS "Moving right along."

MARNELL "You may end up with it in all the districts. If you want to take a vote on it, you may end up with it in the LC as well. Right--the compromise is that it is not in LC, it is in GC."

GAROFALO "There is no elevation in LC?"

MARNELL "But if you want to leave it that way, you are going to have to leave it alone. I would say this committee may very well go the other direction."

KROUT "By staff opinion, I agree with that last statement."

MICHAELIS "Any further questions on these topics? Okay what do you want to do start with? Portable storage containers first?"

GOLTRY "No, I would ask if we could take action on this part first."

MCKAY "I make a motion to approve the Unified Rezoning Code Amendments."

MOTION: Motion to approve the Proposed Unified Zoning Code Amendments with the exception of the sections pertaining to portable storage containers, correctional placement residence and day reporting centers, parking and storage vehicles and some miscellaneous changes/corrections we have already taken care of, have we not, and sexually-oriented businesses.

MCKAY moved, **COULTER** seconded the motion, and it carried unanimously (12-0).

MCKAY: So we are taking out miscellaneous and adding sexually-oriented businesses.

Portable storage Containers

GOLTRY "We have suggested two further changes to the portable storage container language that you had in the previous draft, as a result of listening to the testimony for the public. The MAPC Advanced Plans met on March 27th and recommended two changes to it. Those to changes are shown in pages 1 and 2. First, that a temporary portable storage container can be placed in the LC district for a total of 120 days rather than 90 days. The second change related to notice provisions. There was quite a bit of discussion focused on how were we going to provide notice to the Office of Central Inspection. What the suggested change is--is to have a simple mechanism that we simply extend the length of time from 24 hours, or 1 day, to 72 hours. By doing that, that gets you over the 'what to do over the weekend notice' issue. It is the simplest possible way to handle it. I will say that I just noticed it should not just say 'Office of Central Inspection', but it should also say 'or the Office of Code Enforcement,'

because the County may have some situations arise in a similar manner. It very, very infrequently happens in the County because they have a limited amount of LC zoning. They have had few occasions to do it in this manner in the past. I want to confer with Marvin on that because I know that Glen Wiltse, when we have talked about them in the past, they have treated them (portable storage containers) as permanent facilities. I think primary because they are not faced with the volume of LC zoning that we have in the City.

MCKAY "Do you think after Central Inspection, you ought to put County Code Enforcement?"

GOLTRY "Yes, if the jurisdiction would fall in the County, it would be County Code Enforcement."

MARNELL "The 72 hours, "say if that happened to be a Monday, holiday", what happens then?"

MCKAY "I though we talked about working days."

MARNELL "It is working days."

GOLTRY "I don't think anybody is going to be that concerned, what we are trying to do is give effective notice quickly, but not make it erroneous to do so."

MCKAY "It is 120 days now, 72 hours, notifications is to be provided by the containers owners to the two governing bodies and are responsible for notifying them of removal?"

GOLTRY "Yes."

MCKAY "I just wanted to make sure because it was a point of contention last time."

GOLTRY "Did you want to say something about notification of removal? There is nothing about notification of removal. We didn't have notification of removal. What we did say 'in a situation where removed prior to the 120 days, say one box owner they have it removed prior to the 120 days and then another box owner wants to come drop down their box within that 120 day period', then in order for them to do that, the new owner would have to notify."

MCKAY "I thought we discussed in the Sub-Committee, that notification prior was to be given."

GOLTRY "That would be Item 10) then (a new item to be added), if the box or PSC is removed prior to 120 days.

MCKAY "Notification by the containers, it will CYA them tremendously for not getting it."

MARNELL "What we really talked about was the tracking system being set up because it is the property where it goes at that has that 120-day restriction."

MCKAY "Not the container. We had talked about, I think, the container operators wanted the person to make the notification. It is cleaner and easier if they make that notification. They argued they may come pick up their container, but I don't think that is going to happen."

GAROFALO "The time frame was the same."

MCKAY "We negotiated a time at the last meeting when we had 90 then we went to 120, suggested was 150."

GAROFALO "No I mean on the notification. The 72 hours if it is un-removable?"

MARNELL "I actually don't think we discussed removal in that context. What we discussed was how the Central Inspection would track it so that if another, or somebody removed box A and placed box B when they would get the next notification through. They would see it was the same address and it is still within the time period, but I don't think we specifically discussed notification on removal.

GOLTRY "I don't think we hammered out language on it either. I was working on a phrase."

MCKAY "As long as they are tracking it, it is the address. It is the placement that starts the 120-days for the property, not the box."

GOLTRY "That is right."

HENTZEN "When we require the owners to report to the authorities that it is either placed or removed, does that create a liability on the box owners, a liability between them and the enforcement agencies? Would it be possible

for the enforcement agency to say you did remove it and now there is a fine "8,000.00 dollars everyday, does what we are doing create a liability for the owners of the box?"

GOLTRY "I guess I'm not following the question closely enough to respond. I don't know if Joe can respond."

JOE LANG "As I understand the question is, by giving notice of removal your concern they may be setting themselves for a citation if it is outside the period. I think if you look at the notice of the enforcement provisions in case of violation the Zoning Administrator will give written notice of the nature of the violation and the person has 15-days to correct the violation before further actions is taken. They have already taken care of correcting it by the time they have given the notice. I don't think they are creating, at least a criminal situation for themselves."

HENTZEN "So if somebody was a week late in getting it off their property, the owner of the box could remove it. After the 128 days, say they got the 128 days, you allowed them 120 and the owner of the box removed it, they would get a notice from enforcement that allowed them 15 days from that date to get it off there without a liability."

LANG "That is my reading, if somebody thinks it is different than that, speak up but that is my reading of it."

MARNELL "I for one would not be in favor of adding the removal, additional notification, because just putting the notice in sets it up administratively as 120-day period. So they have got what they need."

MICHAELIS "Any further comments from the Commission? We will open it up to the audience, but I would ask that the comments be limited to the particular item that we are discussing and not to add new things into it. Does anybody have any comments? Mr. Kaplan?"

BOB KAPLAN: "Mr. Chairman, one quick comment, and one item only, I had submitted a memorandum with some proposed revisions and rationale for them. Some of those were accepted, some were not accepted. One was compromised in that we increased the time from 90 to 120 days. The one thing that I didn't get at sub-committee, and I was late and didn't get to speak, my fault, I believe, firmly believe there ought to be at least some provisions in the ordinance for at least one extension of the 120 days at the discretion of the Superintendent. Now let me tell you why, I can anticipate circumstances when we have boxes in place that for various reasons will not be emptied by the expiration of the 120 days. Let's take bedding plants for instances. Say my client, Wal-Mart, gets in three trailers of bedding plants that they are ready to sell in March and we get a snowfall or a cold snap and the cold snap lasts two weeks. And all of a sudden, come to the end of our 120 days we still have a trailer full of bedding plants and we have to remove the box. Now those circumstances can come up and I don't think it's inappropriate to provide a mechanism where there can be at least one extension to cover these contingencies and it can be at the discretion of the Superintendent. That is the only request that I have. I don't think it hurts, as I understand it from listening from sub-committee, although I didn't speak, the impact for the 120 days and the 60-day separation, the impact was to prevent a de-facto permanent placement of the storage box. In other words, if there were unlimited extensions or if there were numerous provisions for extensions, you could have de-facto placement of a storage box 12 months a year and that is what the committee did not want. They wanted it to be temporary. If we retain the 60-day separation between placements of containers then we are not hurt even if we extend 120 days 20 or for up to 30 days if that is the request, as long as we mandate when that comes off that it doesn't go back on for 60 days. So, we can meet the objective, we can provide for this contingency, and we can put it in the hands of the Superintendent or Code Enforcement or however you want to do it. Other than that, I think we have done a pretty decent job with the ordinance."

JOHNSON "What would be your recommendation as far as the time if that were to be?"

KAPLAN "I would say one extension at the discretion of the superintendent for up to 30 days. We wrote, you had a memo--I don't know if you still have it--we provided some revisions to the ordinance. We provided for continual extensions based upon inspections and compliance with the ordinance, and all of that can stay in. I would say up to 30 days extension and let Code Enforcement control it. These things are going to come up. What happens if Christmas sales are lax for whatever reason and Shopko, or K-Mart, or whatever ends up with a trailer full of bicycles and they didn't anticipate the end of 120 days? What are they going to do with them? I just think some recognition has to be made for these emergencies in these circumstances that may befall a retailer and give them and additional 30 days if it is justified. I think Kurt can make that decision. That is the only comment I have the other things I have given up on. I have already tried some arguments unofficially and decided not to bring them up again."

JOHNSON "I am curious about a situation where maybe there was a flood in a store and it was something that took a long period of time--a roof blew off a building and all of a sudden the building gave in--are those under 120 days?"

KROUT "That would be construction related and those are permitted on any site."

JOHNSON "Another thing I just thought about--since the box container is going to notify Central Inspection when they take these or when they take them up, if they reach the 120 days and they don't remove them because the owner still wants them because he still has merchandise in them, so if the two week grace period, 15 days, what if he goes and picks up a container that has got somebody else's stuff in it?"

KROUT "Private matter."

MICHAELIS "Any further discussion? Mr. Hentzen."

HENTZEN "I would like to ask Marvin if this proposal of 30 days sounds good to me, what does it sound to the staff?"

KROUT "I think we like the way the sub-committee has recommended it. If four months, plus 15 day grace period we talked about, I think that, that should be adequate to cover both the spring time sales and the Christmas sales of operation."

HENTZEN "I'm sorry I asked the question."

KROUT "You never know you might get the answer you want."

HENTZEN "I knew the answer I was going to get before I asked."

MICHAELIS "Any further discussion? Mr. Warren."

WARREN "I think it is a reasonable request that there be a administrative variable that they get it another 30 days."

HENTZEN "If they are abusive obviously they are not going to get it."

MICHAELIS "Before we get into a big debate on it let's see if there is anybody else in the audience wishing to speak to this particular item."

TODD DEVEREAUX "I'm with HOC storage. Just a couple of things on that. If the container is loaded, we physically can't move it. So is it our responsibility to move it or do I need to pass this back to the customer. Our equipment can only handle so much, and after 120 days it's still loaded, I can't move it. I don't want to be responsible or be in trouble for it. If we do have an extension of 30 days it will give the customer time to find an alternative to put the units in."

MICHAELIS "That might be a question for Mr. Lang. Can you give us some direction here?"

LANG "There are always these sticky situations, looking on here--the notice, I was trying to find here, item 9 is the only place we put it on the owner. It would be under the Code Enforcement, and that would be a discretionary matter of the Superintendent, of enforcing this. He has the right to go against either the owner of the unit or the owner of the store, or landowner. I would say if the owner of the unit were making a good faith effort to remove it and were unable to do so, he would have a defense and the Superintendent could certainly have bases to enforce it against the owner of the store. This could be a civil matter also between the owner of the unit and the owner of the store. They could cancel the agreement and that way the owner would not have the same responsibility."

MICHAELIS "That would be a discretionary item that Kurt could do on a case-by-case basis."

LANG "He would have the option to look at the facts and straighten it out."

MICHAELIS "Any other comments from the audience, I will bring it back to the commission. I would ask that maybe we get a motion, before we go any further."

MCKAY "I make a motion that we approve as written in the past by the Sub-Division Committee or I mean the Advance Plans Committee."

MOTION: To approve as submitted by the MAPC Advance Plans Subcommittee

MCKAY moved, OSBORNE-HOWES seconded the motion.

MICHAELIS "Discussion, Mr. McKay?"

MCKAY "The only thing I am saying--at length in the committee, and I'm saying it makes no difference if it's 120 day, or 90 days if you start giving extensions, say it 120 day, you give 30-day extension, with a 15 day on top of

that, that is six months. There is not any cycle of business that lasts much more than that. The thing of using, Wal-Mart, they are better merchandisers than that. They have plenty of inside storage. We have permanent storage where people can put stuff in if they need too."

HENTZEN "I'm going to make a motion, a substitute motion to approve the issue with staff comments, except add the 30-day extension by the code enforcement superintendent."

MOTION: To accept the recommendation with the addition of a 30-day administrative extension as necessary.

HENTZEN moved, **WARREN** seconded the motion.

MICHAELIS "We will be voting on the substitute motion first. Mr. Marnell."

MARNELL "What if... I'm against the Motion, because we went over this extensively. This started out as a 90-day period, as a temporary period, and based on the comments it was moved to 120-days and I think if we are going to make it 150-days, then we ought to just make it 150, but I think the 120-days covers it. I'm not going to vote with that motion."

MICHAELIS "Comments"

MCKAY "I feel the same way, I think the committee has don a lot of work, spent a lot of time on it, they certainly hashed all the options."

MICHAELIS "Any other discussion? We are voting on the substitute motion."

MOTION: Substitute Motion (2-10) Motion denied. (Hentzen and Warren voting to approve)

MICHAELIS "Back to the original motion. Any further questions on the original motion?"

MOTION: Original Motion (12-0) Motion carried.

Correctional Placement Residences and Day Reporting Centers

DONNA GOLTRY "Next item on the Agenda—as we are going through the additional commentary or issues--will be on Correctional Placement Residences and Day Reporting Centers. I need to do some clarifications on the memo I sent to you because I was wrong on what I sent to you. If you turn over to page 5 and 6, turn particularly to page 6; and then I am going to back up and give you some prefacing comments before I tell you what is wrong with what I said.

Where we stand right now is that Day Reporting Centers have come along and the MAPC Advance Plans Committee has considered Day Reporting Centers and recommended, and you have discussed, treating them the same way that we treat a Correctional Placement Residence. It has also been discussed at the Alternative Housing Board. They have recommended treating them the same as a Correctional Placement Residence. What that means is that they would be allowed in GO, LC, GC, CDB, LI, and GI. They would be a permitted use unless they are within 750 feet of a residential zoning district, in which case they would become a Conditional Use. That is what's contained in the language on page 5. I would ask today that we consider going ahead to adopt this portion of the language so that we have something that treats Day Reporting Centers and treats them the same way as a Correctional Placement Residence.

Since our discussion, there has been quite a bit of other discussion that has happened throughout City staff about this whole day reporting center issue. I know we have some people here to speak on this issue, on both sides. At the most recent staff level discussions it was proposed that Day Reporting Centers and Correctional Placement Residences only be allowed in the CBD, LI, and GI district. And that they would be as a permitted use, but that if they were within the 750 feet, once again they would stay as a Conditional Use in that situation. But they would not be allowed at all in the GO, LC, or GC district. That is where I am in error in the memo that went out to you. I misinterpreted the memo that I received, thinking what they were doing was converting them to a Conditional Use in those three more restrictive districts (GO, LC, and GC). Please scratch that whole page of comments on page 6 of your memo, where it talks about making GO, LC, and GC a Conditional Use.

My feeling is that we have been to the DAB Boards on this, and maybe Marvin can speak better to this, we have been to the DAB boards on it on the recommendations as we originally came forth with that you treat it like Correctional Placement Residence. To do something, to take Correctional Placement Residences and Day Reporting and remove them from those zoning categories probably deserves additional scrutiny by the DAB Boards, the Alternative Housing Board before that is adopted. I can't say in good faith I would ask for that kind of adoption today because I think it is premature, and maybe I won't speak to the advisability of it because I am supposed to

only give staff comments. With that in mind I open it up to questions of staff, and I know there are people here to speak on this issue."

MICHAELIS "Any questions of staff?"

GOLTRY "Maybe Marvin wants to elaborate also."

KROUT "There are potentially licensing issues as well as zoning issues and this Advisory Board is going to continue to be studying the issue of licensing. There has been some discussion about siting criteria and should those be things that go into the licensing provisions. Also issues that come up, like if you happened to be next to or in an industrial district, but there happens to be a gymnastic center that caters to children, are you allowed to locate by right in that industrial district if it is 750 feet away from a residential district, but happens to be next to this gymnastic center. There are also questions about the kinds of crimes that people may have been responsible for and whether or not there should be some rules on those. There is a lot of discussion that have not gone through the District Advisory Boards, through the Correctional Advisory Board up until now, so we are anxious to clarify the issue that has lead to an appeal of interpretation of where this use belongs in the zoning code. Our recommendation, and to the City Council, is to go ahead with what was originally approved now, knowing that there will be more community discussion and we may come back and revisit this in the future."

MICHAELIS "If there are not further questions from staff, how many people in the audience would like to speak on this issue? Would you come forward please, somebody."

BICKLEY FOSTER "Mr. Chairman, members of the Commission, I have a simple question I think. If I were a resident and were going to receive a notice of a Day Reporting Center, what kind of notice would I get? What would the name be? Would I be sent a notice that says Correctional Placement Residence or what? I really do not know reading this what it is? Am I clear? Marvin do you understand what I am saying? What will I be told it is?"

KROUT "I think that the way we send out notices on "Conditional Uses" you would only get notice if it required a "Conditional Use" and you were within the required radius as far as the Planning Commission policy. If you received notice and it was for Day Reporting I think we would both say it was a Correctional Residential Facility and that this facility is a Conditional Use specifically for a Day Reporting Center."

FOSTER "Now I hope the members would see how misrepresented that would be for a person receiving that. To tell somebody that a Day Reporting Center, just use the example of the ones we have now, we are talking about 120 parole violator that otherwise be in prison. And we are going to tell the residents that they have the possibility of having a Correctional Placement Residences, I think it is totally misleading. I think you need a name for this that is not a residence. They don't sleep there. Do you see what I am getting at? I think it is very confusing to notify the neighbors that this is a residence. It is not. Is there any question, am I getting through the point I am making here?"

MICHAELIS "You are getting through, but it is a matter of semantics that I don't know if we are going to be able to sit here and necessarily come up with."

FOSTER "I am saying to send a notice to somebody and tell them they are going to have a Correctional Placement Residence when it has nothing to do with being a residence at all, and let them think that and then find out that it is a Reporting Center for any number, you don't expect a resident to have 120 people showing up their for 15 hours, 7 days a week. That is what this is. I think the notice would be very inappropriate, and I think the definition is wrong. It is not a residence."

MICHAELIS "Mr. Warren, Mr. Foster would you come back to the microphone please?"

WARREN "Bickley Foster you have been writing the ordinances for 35 years I know of, what kind of wording are you suggesting that would replace residence?"

FOSTER "I would use the same standards that are being proposed for the Correctional Placement Residence. The 750 feet is all that's been discussed. I just think we need to give it a different name."

MICHAELIS "I think Mr. Lang has a recommendation. Would you like to give that to us as a substitute?"

JOE ALLEN LANG "Obviously as Mrs. Goltry mentioned, there is a lot of discussion and there may be some revisions coming up for the whole thing. We have our licensing and housing code that use terminology and we were trying to get something that would fit into the Zoning Code. Mr. Foster, on a technical ground does have a legitimate question whether or not the notice that went out explain more. But I would see no problem if you slashed (/) this and put Correctional Placement/Day Reporting Center. You are going to have read the definition that not all Day Reporting Center perhaps are covered. It is those where people are required to report for 3 or more

days a week for 6 hours. But at least you can look in the definition and find that. As a quick fix I think that would work, if you wanted to (/)."

FOSTER "I think that is an excellent idea. Thank you."

ELIZABETH BISHOP "I have just a couple of questions. I think I understand Donna and where we stand with what it is that is before you now for an actual discussion before you today. I was not able to be here at the public hearing time and I have a couple of questions? I am assuming that the same density requirements that pertain to Alternative Correctional Residences would pertain in this instance. I can tell you that a lot of the original impetus for addressing this very issue arose from the fact that a number of the Alternative Correctional Residences were cropping up in the same neighborhood, two, three, and to one point almost four within one residential block. So the density is a major issue. Especially when you are trying to craft something that deals with a new entity that hasn't existed in the community before and it has the potential for having 120 individual reporting there for long periods of time. I think density definitely comes into play there in terms of where these are placed around town. I might tell you that I am a member of the Community Corrections Advisory Board and we were discussing today the process of the residential facility for Community Corrections moving from its downtown location to a location along Central Street. We were looking once again at of how that is buffered by the railroad tracks, by the hospital and so forth. This is an on going discussion. May I ask if the density is covered by the changes?"

KROUT "The issue of density of spacing between facilities did come up at the District Advisory 6 meeting and we reported that suggestion to the Planning Commission before you had your public hearing, but we also told you that the spacing requirement is in the licensing provisions for Correctional Residences now not in the Zoning Code. It would be more appropriate to treat any spacing requirements for Day Reporting Centers also as part of licensing and that the Correctional Board is going to be taking up the issue of licensing and then they would deal with the issue of spacing. Even that is not a simple question, are you going to require Day Reporting Center to be spaced at least twelve-hundred feet from another Day Reporting Center, but also from a residential facility or not from a residential facility. There are probably several other questions like that too. I think our recommendation to you was, keep it consistent, let spacing issues stay with the Correctional Advisor Board and let them deal with that issue in the future."

BISHOP "I appreciate that information."

MICHAELIS "Mr. Garofalo?"

GAROFALO "Marvin, didn't someone tell us at the public meeting that the state had some sort of requirement that you can't put these things all together, or within in a certain amount of space of one another?"

KROUT "The state has some guidelines has for the location of these facilities, but I don't think spacing near another same type facility is one of those guidelines."

BISHOP "If I might respond, what I have seen that the state has in terms of the criteria was the criteria placed within the request for proposal. That purposes that were seeking a contract with the State would provide that service would respond to. That is the only criteria that I have seen at the State level."

MICHAELIS "Are there any other speakers in the audience?"

ROSALIE BRADLEY "I have a question first, am I understanding what the proposal is the last three sentences and that they would remain a Conditional Use in the districts within 750 feet of the residential zoning or are we marking that out? The bottom of page 5, onto page 6. Is that in or out?"

GOLTRY "This is where the changes begin (page 6 should be deleted)."

BRADLEY "Therefore it says in, which it means it would be a Conditional Permit for GO, LC and GC."

GOLTRY "No."

BRADLEY "No. That removes?"

GOLTRY "That is not the proposal we are considering right now. We are considering this proposal. (Donna is showing Ms. Bradley the information sheet)."

BRADLEY "Then you haven't located it where? Except it can still stay in GO, right? Okay. Well I am appreciative of the efforts that the Advance Plans Committee put into this. I was there. They listened to some of my suggestions and the included them in there. It is still back to a General Office conditional permit. I still think there needs to be a lot more limitations. Maybe you are right we can do it in the licensing. I do think that what you have is a good beginning except that I will agree with Bickley, that there needs to be some definition because it is

not residential. In the residential licensing, I was at that meeting and the board was having a terrible time trying to work the two together simply because the definition of the housing condition, the requirements of bedding, the requirements of food, these types of things just didn't fit, so they had to throw it out. They are at a total loss. They are starting from scratch. This issue needs to be pursued now with the City because the future is going to be rough."

MICHAELIS "Next speaker."

JOE HOOVER "I'm with the Wichita Public Schools, Facilities Division. The Wichita Public Schools realize it is a very difficult to locate a Day Reporting Center. However, the District is concerned about having a center located very closely an attendant center. The safety of our students is our top priority. Many students walk to school, some of them don't actually get bussed until you are 2 ½ miles away unless there are other circumstances, hazardous busing or something like that. So, it is important to a district that a center be located as far away as possible from the school. The further that the Center is located away from the school, the less likely that there will be a large number of students walking by that Center. Relative to a distance to locate a center from a school I believe a bar has to be located 1,000 feet away from a school under normal circumstances. Of course, we do have schools dotted all the way across the map of the City so I realize we complicate things here too. I appreciate this opportunity to speak to you about the District's concerns. Thank you."

GAROFALO "Tell me, what you are suggesting? Are you suggesting greater distance so that schools are included?"

HOOVER "Not necessarily, they have to go up, but obviously we would not mind a 1,000 feet, but I understand 750 feet, however with a Conditional Use I hate to see it go any closer than that 750 feet to a school. I understand it could go closer with a Conditional Use permit. Isn't that right Marvin?"

KROUT "The Planning Commission's job would be to consider those cases on a case-by-case basis, to provide notice to property owners, have a hearing, make a determination. If they approved it, the neighbor's could object, it would go to City Council and they would have the final say."

HOOVER "That is our main concern. Obviously we would love the higher the number the better, but we realize we have to be reasonable since we have so many schools across the City. We hate seeing Conditional Use permits allowing it even closer than that, 750 feet."

MICHAELIS "Mr. Hentzen"

HENTZEN "You might be able to answer part of this. This is a school facility in this building, would that mean that they couldn't but it within a 1,000 feet of this building?"

KROUT "According to the wording that's for your consideration today, the measurement for when you require a Conditional Use would only apply to residential zoning districts. So that the fact that there is a school in the CDB district, is sort of like the Gymnastic in an Industrial district. It would not trigger the Conditional Use necessarily. This may happen to be within 750 feet of the apartments at Central and Waco, if it is then you would have a Conditional Use requirement to place a facility in that building."

HENTZEN "Also I would like to ask, who operates it. It is a state facility isn't it?"

KROUT "It is a State managed facility, and I don't know the details. I think there is someone here who could probably tell you more, but these are state-managed facility, but they are being contracted to private companies."

THOMAS R. DOCKING "I am the lawyer with the Morris Laing firm here in town. I've recently been asked to look into this issue on behalf of Community Solutions, which is the company based out of Connecticut, that under contract with the Department of Corrections to operate Day Reporting Centers in Kansas City, Topeka, and Wichita. Currently under lease but although not in operation to run a Day Reporting Center at the Twin Lakes shopping Center near 21st and Amidon. I will confess that there are many people in this room who have studied these questions for a greater or longer period of time than I have. I am beginning to appreciate some of the complexities of the considerations that go into this. But I do wish to convey on behalf of Community Solutions a corporate desire, as it were, to comply with the larger the public desires of the City. That is to say we know, we may not be the most popular tenant in the world and we don't wish to rub anybody's nose in that fact. While at the same time we are under contract with the Kansas Department of Corrections to provide a service that is required by state law. Thus, we have a legal obligation much like this community has a moral (obligation) to be reasonable about where these facilities might be located."

The final point I wish to offer for you and this is not by way of trying to persuade you one way or the other about today's action. However there is a current appeal to the Board of Zoning Appeals on a previous decision, with respect to our purposed Day Reporting Center that may deal with our situation more directly than we think this

does. It is my understanding that a change proposed today by law has to be prospective in nature only. I think this is worthy matter for your consideration for future purposes. My current understanding is that this will not affect whether or not that facility of Community Solutions goes in at Twin Lakes or not. I think that is a different forum, different matter where that decision is going to be made. Anyway, I am available to answer any questions you may have."

MICHAELIS "Any further questions? Seeing none, I will bring it back to the Commission."

MCKAY "Well I think I have expressed my concern that I don't think it ought to be located anywhere except Central Business District, Limited Industrial and General Industrial. That is where I stand."

GAROFALO "I think I am a little confused as to where we are allowing it. We're we taking it out of GO LC and GC?"

GOLTRY "The official proposal that came forward did not take it out. The proposal that went to DABs did not take it out. What it did was treat it the same as a Correctional Placement Residence, making it a permitted use in GO through GI and a Conditional Use when it is 750 feet from the residential zoning district. There have been additional discussions that have added that wrinkle that you just mentioned."

GAROFALO "So as you have it here, that is correct."

GOLTRY: "Page 5 down through the last paragraph would be what has gone forward. This is the proposal; we did have a suggested change today to make the Correctional Placement Residence/Day Reporting Center in the title, which is a minor tweak."

GAROFALO "So that last paragraph on page 5 is correct, no changes."

GOLTRY "Go down to Item H, that is the one I am officially bring forward to you. Now you have on the table, you are discussing other items, like Mr. McKay has just expressed his opinion about how he feels about where it is appropriate for us to allow the Day Reporting Centers."

MCKAY "Once again I guess I would like to ask for a motion so that we have something to discuss in particular."

MOTION: That we approve the changes as set out in part P and H here with the change made today with the slash (/) Day Reporting Center.

MARNELL moved, **COULTER** seconded the motion:

Sec. II-B.3.q of the Unified Zoning Code would be changed as follows:

Correctional Placement Residence/Day Reporting Center means a facility for individuals or offenders that provides residential and/or rehabilitation services for those who reside or have been placed in such facilities due to any one of the following situations: (1) prior to, or instead of, being sent to prison; (2) received a conditional release prior to a hearing; (3) as a part of a local sentence of not more than one year; (4) at or near the end of a prison sentence, such as a state operated or franchised work release program, or a privately operated facility housing parolees; (5) received a deferred sentence and placed in facilities operated by community corrections; or (6) require court ordered guidance services for alcohol or chemical dependence. Such facilities will comply with the regulatory requirements of a federal, state or local government agency; and if such facilities are not directly operated by a unit of government they will meet licensure requirements ~~which that~~ further specify minimum service standards. This definition shall also include a facility that provides non-residential community supervision services to individuals or offenders who are under supervision of the court and any of whom are required to report to the facility for three or more days per week for six (6) or more hours per day. (p. 14)

Sec. III-D.6.h of the Unified Zoning Code would be changed as follows:

- h. Correctional facility and correctional placement residence/day reporting center. Although listed as permitted uses in certain districts, correctional facilities and correctional placement residences (limited and general) and those non-residential community supervision services that are included within the definition of correctional placement residence shall always be considered conditional uses and subject to Sec. V-D (Conditional ~~U~~Use review procedures) when located within 750 feet (measured from property line to property line) of a residential zoning district, unless separated by a major barrier. Correctional placement residences and those non-residential community supervision services that are included within the definition of a correctional placement residence shall comply with all applicable federal, state and local regulatory requirements, and if such facilities are not directly operated by a unit of government they shall meet licensure requirements ~~which that~~ further specify minimum service standards. (p. 133)

MICHAELIS "It has been moved and seconded by Dr. Coulter to accept it as presented with the additional correctional of the / in the title."

OSBORNE-HOWES "Are you saying that you won't vote for this then? I am real concerned about this too."

BARFIELD "Do we have any idea how many of these facilities we are talking about in the city?"

RON LOWMAN "I am the Program Director, we are working out of the North Parole Office, 210 N. St Francis. The contract has three contracts, Topeka, Kansas City, and Wichita. That is all that is contracted, 40 in Topeka, 60 in Kansas City, and 120 in Wichita. There are three programs with the intent to house 120 people in one place, one program."

BARFIELD "Now we go back to what you just said, when you say house, it then goes back to the controversy a while ago about a residence."

LOWMAN "This is not a residential program. Day Reporting Centers is a day reporting center at the point we are contracted to a 15-hour days, 7:00 a.m. to 10:00 p.m. There is discussion that is ongoing to change the hours possible in the future, due to bus transportation and other issues, but that is a contractual issue. As the contract reads now it is 15 hours a day. The way the program works is when they have a job they go to their jobs and then they would eat dinner and return to the program between those hours. Depending on when the clients are working will depend on the number of people that will be in that program at one time. We are not necessarily talking about 120 people at a time. I would think it would be fairly split. We can't tell you that until we get the clients. But you will have people with night jobs, second shift jobs, and day jobs. Population would be 120 total, hours from approximately 7:00 in the morning to 10:00 at night at this time, 7 days week, 365 days a year with a staff of 23 people. I think the unique thing about this is the ongoing contract with the global positioning. They are under 24-hour surveillance. That is in contract negotiations and I really won't speak too much on that because that is a Department of Corrections contract, it has nothing to do with community solutions, other than we will be the ones doing the monitoring. I can tell you it is a simple thing to set up the buffer zones, you will know where they are at, if they enter an area they are not supposed to be at, it will be queued on and we will do follow up to find out what's going on. It is the highest level of surveillance of any of the parole people that are now on parole. You have direct supervision, plus they will be monitored 24-hours a day, there are no other parolees that have a higher level of supervision than this group that will be going to the Day Reporting Center."

HENTZEN "On the 120 people that maybe in the Wichita area and you say you have a center for reporting, do you have a clue as to how many of that 120 will be going to work everyday, somewhere on any shift?"

LOWMAN "I'm not from the Wichita area, but based on what I have been watching from the Parole Office, and I have been here for about 6-weeks now, it appears that 90 to 95% of the parole people will have jobs and are actively working. This is a guess, I would say 90% or above."

HENTZEN "The other thing, that is good information, what about those 120 are reporting to a center, where do you think that 120 are housed?"

LOWMAN "They are in your community; they live next door you, and they are all around you."

HENTZEN "They are not in a place like Correctional Placement."

LOWMAN "No, they are not in Correctional Placement, they are your neighbors."

HENTZEN "I've been wondering about some of them."

LOWMAN "The only thing you just may not know that they are your neighbors. But they are already out there with you, they live next door to you, I mean, they are around us everywhere. You just may not know that, that's is who they are, but they are there and they are in our neighborhoods are our next-door neighbors."

GAROFALO "Why the 10:00 p.m.?"

LOWMAN "You would have to ask the Department of Correction why they came up with the 10:00 p.m. Like I say, based on some recommendation the company has been making, I believe that will change. That is my belief."

GAROFALO "Change which way."

LOWMAN "I am not going to set myself to what the hours are going to be. I can tell you though there are transportation (issues) because these people have to have a way to get back and forth, bas on bus schedule and things, It is my opinion that there is going to be some possible change, but that is with the company and the Department of Corrections to come to us with a contractual change?"

GAROFALO "With an earlier closing?"

LOWMAN "That is what we are talking about."

BARFIELD "You mentioned that these people are more closely monitored than any other group of parolees. Why is that a necessity?"

LOWMAN "They will be wearing the global positional anklets; we will have them on the computer. Based on a demonstration that I saw, you can tell when they are speeding in a car. You can give them a certain amount of time to be out of a school zone for instance. These people are driving through your school zones right now. They are not on global positioning. Some of the issues that I have listened to, it is the highest level. Your average person that is on parole, they are not a global positioning monitoring. These people will be under monitoring 24-hours a day."

MICHAELIS "Ms. Osborne-Howes."

OSBORNE-HOWES "And why are they at that higher level?"

LOWMAN "Opinion would be to ensure that we have no problem with any of these people while they are doing their 90-day program, and to have harsh consequences if they should not follow the rule and regulations of the program. I think they are also on a higher level of surveillance because these are not regular parolees. These are parolees who have already violated the terms of their parolee. That is the reason we want greater supervision and because otherwise they would be on their way back to jail. If they can't show they are going to follow rules and regulations and we have to way to monitor that, then there is no accountability. With this system if they are not acting right, they will be revoked and they will be sent back to jail. So what we are going to be dealing with is teaching people how to live right. At least for the 90-days they are with us."

MICHAELIS "We need to move along. Do we have a motion? Any further discussion. Do we need to repeat the motion? It was to approve it as written, but change in the title."

GAROFALO "I would like to see if we could amend the motion to change it to 1,000 feet instead of 750."

WARREN "Is that a substitute motion?"

GAROFALO "I can make it as a substitution or make another motion."

LOWMAN "I wouldn't be willing to make that change that motion. These are things that have to be located here, 750 feet is a reasonable amount and you are talking about property line to property line not physical references so I think it is adequate where it is at."

MICHAELIS "Mr. Warner."

WARNER "I agree, I think if you increase the distance, you make it less restrictive, because they would have to get a Conditional Use then. In other words a 1,000 feet makes it less restrictive to trigger the Conditional Use than the 750 feet. So, I think you would be doing the opposite of what you are trying to do."

MICHAELIS "Okay, let's vote on the motion. Let's do a roll call. Osborn-Howes, no; Marnell, yes; Coulter, yes; Platt, yes; Johnson, yes; Warren, yes; Warner, no; Garofalo, yes; Barfield, no; Michaelis, yes; Hentzen, yes; McKay, no."

Motion: Carried (8-4)

Sexually-Oriented Business

GOLTRY "Sexually-oriented businesses, as you recall, we deferred this subject from last Thursday's meeting because we wanted a point of clarifications from the County Law Department. I believe they are here and ready to present it. They have given you a handout at the table. So I'll turn it over to Karen Duranleau."

KAREN DURANLEAU "Good afternoon, Assistant County Counselor. As you know last week we discussed these amendments to the Zoning Code. The proposals for adding a classification for sexually-oriented businesses. My understanding is that this committee had a concern, among several concerns, one of them was that potentially a business that is or was located outside the 1,000 foot buffer on June 28, 2000, that that business could be forced to be moved if later one of the designated entities--church, school, public park, other adult establishment, alcohol establishment--were to move in later. I did some research and, as I mentioned I wasn't in on the ground floor of this resolution, but I did find out that there were no adult businesses that were outside of 1,000 foot buffer on the

day of the County Code's enactment. So there were none that your concerns would apply to--no businesses. We are talking about adult licensed businesses; I adapted a chart that you should have in your packets that only applies to the adult licensed businesses. This chart does not show any alcohol-licensed businesses. This only indicates the ones that are adult licensed as of June 28, 2000. I took out the ones that were annexed since June of 2000. If you look, we do have certain provisions that they can operate until 2004, they can be totally nude, in these adult licensed business establishments, they can be. The options for moving, like, at all of these clubs would have to move July 1st of 2004. The County Commission decided; that was a policy decision they wanted to make that these places needed to be away from the communities that they were affecting. They were affecting them greatly. There were a lot of people that spoke at that time that were concerned about what the secondary effects were on the community, that these businesses were having. I did go back and look at the transcript of the meeting on that day, June 28th of 2000 and I think it is significant that the State Representative, Don Meyers spoke in support of the resolution. The County legal department has done a lot of research on the amortizations provisions. We had had some constitutional lawyers who specialize in that area look at those. This committee asked about possible a revision to those proposed amendments and we decided that it would really not be within the County Commissioners intent to weaken this code. We felt that any tampering with the amendments as they are would weaken both the Zoning Code proposed amendments and also weaken the County Code. So we don't have a revision for you. I thought the explanation that there were no businesses that would be affected by the concern that the committee had would help this committee make a more informed decision. That is basically all I have. If you have any questions on the chart or any of the provisions of the amendments I can answer those."

MCKAY "I think one of the major concerns that we had last time was the way it was written, that if somebody was 1,000 feet away today and then a year from now moves within 1,000 feet would they have to move. I don't think you have answered that question yet."

DURANLEAU "That question has been answered by the County Commissioners as a policy decision that after June 28, there can be no adult business locating within a 1,000 feet of a church, school, public park, or residential area."

MCKAY "What if I go halfway between here and Viola, and I put up one and there is nothing around and two years from now all of a sudden a subdivision pops up. Do I have to move?"

DURANLEAU "That exception is in your amendments. That is exception number Sec. VII-J.1.c. Just to clarify, all of the businesses that are on your chart were in operation March 1 of 1997."

MICHAELIS "I think this is really answering that question, because we were concerned about somebody that was currently operating 1,000 feet away and then if somebody would move in they would have to close down. But what she is saying is; these are the only four out there that would fall under that. And they would have to move."

MARNELL "That doesn't answer my question, which is the same as Mr. McKay's. If somebody builds a legitimate business and a church goes in within the restricted area what happens to the business?"

MICHAELIS "They are exempted, clearly exempted."

DURANLEAU "They are exempted under Sec. VII-J.1.c."

MCKAY "That is the straightforward answer we were looking for."

MARNELL "That was the after June 28th 2000 part."

KROUT "I think the question was, 'what about anyone who went in before June 28, 2000, who came in before the church, school, or residential area should be treated the same way.' I think that was the point you were making, and what we got back was these four cases. This does not say whether or not the adult use came in first or the residential, church or school came in first, but you are saying it is a policy decision that does not really matter to the County Commission, they would like to amortize these four uses."

GOLTRY "Yes that is true."

WARREN "Did I understand that there are some now that would be in compliance with 1,000 or is every one of these in the County now probably out of compliance under the amortization rule?"

DURANLEAU "Right they will need to move; every adult licensed club will need to move before 2004, June 30. There is not a one that exists that is outside of that 1,000-foot buffer."

BARFIELD "My question is, we are saying, the way I understand it, prior to June 28, all of these businesses are legal and after June 28, they are not?"

DURANLEAU "I guess the definition of legal, that would be my concern. Before this code was enacted there was no provision that they were in violation by being there. We were approached--the County Commissioners and the County were approached--by numerous citizens that had a problem with this being this close to their neighborhood. So then we gave them at that time it was 4 years, we gave them that period of time to make their plans, search for a new place to locate, give them that time to recoup whatever moving expenses they might incur when they had to move. Gave them time, we did not completely eliminate them. It's not a total band on nudity; it's just that you can't be located in that area. Did I answer your question?"

MICHAELIS "Is there anyone else in the audience that wished to speak to a particular item that we have been talking about?"

LINDA ULRICH: "I am a residence of Oaklawn, which entails two of the businesses that she had mentioned, Jezebel's, and Xcitement Video. I have copies of numbers and some information that I would love to hand out to explain my part in this. I was on the committee that was to go before the County Commissioners to trying to get these establishments moved. I don't care, my personal view, is I don't care where they go. It is just the fact that it is being too populated out there. The kids are being affected by it, the sheets that I am handing out on the first page entails the total signatures on the partition. The second page is the breakdown of just the Oaklawn area where the businesses are located. The third page is the crime stats or secondary effects. Ladies and gentleman their needs to be a regulation on this; you need to help us change the zone on this. You can regulate the salvage yards; you also need to regulate these adult establishments. Put yourself into our shoes. We have to live here day-by-by, by these establishments. It is very embarrassing when someone comes up to you and says you live in Sin City, you live in red light district area. It is a little bit on the humiliating side, and sometimes can get you upset."

MARNELL "Can I get clarification from you; you realize they are asking those businesses to move? Correct."

ULRICH "Yes."

MARNELL "You are in support of that?"

ULRICH "Yes. This is a land issue. We can't get business in the Oaklawn area to come in, positive role models. We have tried to get McDonalds to come in, we have tried to get Burger King and these business do not want to be established anywhere near these adult entertainment establishments. No one wants to be located next to it. Dollar General, the district manager told me they looked at that area, they finally moved into the Mall at 47th and Clifton. He told me they had looked at the place three times before. They finally decided to give it a try. I asked why it took them that many times. It was because of the adult entertainment. They were afraid of the crime, what it would entail, what type of cliental would be coming in? We have had the wall built and finished, we have had cleanup, we area trying to change our ways. We are trying to get the area cleaned up. This is a morality issue also. The kids when they see the signs that say exotic dancer or Xcitement Video had a sign that saying toys, brand new toys, come in and see the new toys. The kids are saying, 'Mom, let's go in and see the new toys. I want to take the toys home.' I am sorry these are not the type of toys I want a kid have to play with. They also ask, 'why there are not windows in that building?' It gets a little frustrating trying to explain to these kids the type of activity that goes on in these business, why are they are there. As you can tell by the petition, the petition that I had to go around, along with a bunch of residents that were unable to attend today because they have jobs, they were residents, they were people who were employed in the Oaklawn area, landlords, they are relatives, friends that are visiting relatives in the areas or other friends. There are also business people like Boeing who drive to and from work, but they go through the Oaklawn area on 47th street. First thing, they say is oh, you live in Oaklawn; oh that is where the red light district is because there is so many. As you can tell, ladies and gentlemen, those number do talk."

GAROFALO "She has listed here Silhouette Club and Teddies Bears."

DURANLEAU "Those are not adult licensed establishments. They may have been a concern of the neighborhood, but they are not on my chart because they are not adult licensed. Those provisions were not amortized as to the alcohol establishments. The County Code in essence separates alcohol and nudity. There was an immediate band on nudity and on alcohol-licensed establishments."

GAROFALO "So these are just not included."

DURANLEAU "Those are not amortized uses."

BARFIELD "Are these businesses that we have here, are these businesses screened?"

DURANLEAU "Are they screened? No, you mean like a fence around it? No. That came up during the discussion in the June code meeting, and that was my understanding that, that was not acceptable to the residence. The criminal activity sort of spilled over into the entire community and that just putting a fence would not take care of the problem. That was considered or brought up at least."

HENTZEN "The last lady that spoke, she gave us this information about the petition, did you think you gave us a copy of the petition?"

ULRICH "I didn't know what to expect or what to bring, the petition contained trying to get the law changed. It was just to get the law changed."

MICHAELIS "We need a motion."

DURANLEAU "Chairman, could I clarify one thing, Donna brought to my attention; There are three sections for the amortized provision, the first one is for a business that first locates somewhere after June 28, of 2000. That is what the first amortization exception is for, the second one is for a roadway if there is a highway in between the adult business and a residence then there is no requirement that that business move, and then the third one is the ones that are existing now. I just wanted to clarify those are the three exceptions."

MCKAY "Motion to approve subject to what is written by the Law Department."

MOTION: That we approve the sexually-oriented businesses proposed amendment as written by Law.

MCKAY moved, **GAROFALO** seconded the motion, and it carried unanimously (12-0).

Parking/Storing Vehicles

MARNELL "We are not going to go into Parking/Storing Vehicles. We are going to have to put that on next week's agenda and instead of starting at 1:30 we will start at 1:00. We apologize if there is anyone here to speak on that, but we are flat out of time. Once again if you have some new information to bring next week bring it, but otherwise we are adjourned."

The meeting adjourned at 1:37 p.m.
